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10/644,408

08/19/2003

Peter Krenn

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7590 02/26/2008  
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EXAMINER

COLLINS, DOLORES R

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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 10/644,408  
Filing Date: August 19, 2003  
Appellant(s): KRENN ET AL.

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Mark A. Litman  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 11/28/07 appealing from the Office action mailed 7/2/07.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

#### **(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

#### **(8) Evidence Relied Upon**

3, 944,230	FINEMAN	3-1976
6,676,127 B2	JOHNSON et. al	7-2001

#### **(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

1. Claims 1-3, 5-6, 11, 15, 25-27, 29-30, 33-38 are rejected under 35 U.S.C. 102(e) as being anticipated by Fineman (230)

Fineman disclosed a Card Shuffler.

Regarding claims 1-3, 5-6, 11, 15, 25-27, 29-30, 33-38

Fineman teaches a device that has an inner case a platform with a plurality of compartments (pre-shuffler) and an outer case (main shuffler) for aligning and the outputting cards (see abstract and figures 1 and 2).

2. Claims 4, 7-10, 12-14, 28 & 31-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fineman (230) as applied to claim 1 above, and further in view of Johnson et al. (127).

Regarding claims 4 & 28

Fineman fails to teach horizontal movement of his cards with respect to the input portion of the main shuffler. Johnson teaches lateral movement of his cards during delivery (see col. 2, lines 7-14). It would have been obvious to one of ordinary skill in the art to modify Fineman to include lateral (side to side or horizontal) movement to add variety to the card handling process.

Regarding claims 7-10, 12-14 & 31-32

Fineman fails to teach a rack that rotates. Johnson teaches a carousel mechanism, with multiple compartments, which rotates in the card handling process

(see abstract). It would have been obvious to modify Fineman to include a rotating mechanism to add variety to his device.

#### **(10) Response to Argument**

Applicant's arguments with respect to claims 1-15 & 25-38 have been considered but are not considered persuasive. Applicant seems to be arguing subject matter that is not properly being claimed.

Applicant argues that the cited reference fails to teach a pre shuffler and a shuffler combination. Examiner reads the card shuffler of the cited reference to have an outer case (i.e., the main compartment in which shuffling takes place) and an inner case (pre shuffler). A pre-shuffler reads on any structure that is upstream of the main shuffler. The inner case which is upstream of the main compartment shuffler reads on a preshuffler.

Further, applicant seems to be arguing the function of his invention. Examiner notes that applicant has presented apparatus claims only. The method by which cards are inserted into applicant's device is given no weight at this juncture.

#### **(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

Art Unit: 3714

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Dolores R. Collins/

Examiner, Art Unit 3711

Conferees:

/Gene Kim/

Supervisory Patent Examiner, Art Unit 3711

/XUAN M. THAI/

Supervisory Patent Examiner, Art Unit 3714